Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 9314-70	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature_____ Typed or printed name _____	Application Number 10/812,700	Filed March 30, 2004
	First Named Inventor Asokan	
	Art Unit 2617	Examiner Marcos Batista

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am·the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
     See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
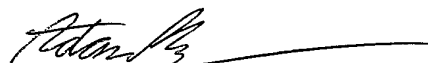   (Form PTO/SB/96)

☑ attorney or agent of record.
     Registration number _____65,933_____

☐ attorney or agent acting under 37 CFR 1.34.

     Registration number if acting under 37 CFR 1.34 _____

_____
Signature

Adam L. Rucker
_____
Typed or printed name

919-854-1400
_____
Telephone number

August 25, 2010
_____
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

Attorney Docket No. 9314-70   <u>PATENT</u>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Asokan   Group Art Unit: 2617
Serial No.: 10/812,700   Examiner: Marcos Batista
Filed: March 30, 2004   Confirmation. No.: 4087
For: *Methods, Systems and Computer Program Products for Suspending Packet*
       Switched Sessions to a Wireless Terminal

                                                   Date: August 25, 2010

Mail Stop Appeal
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REASONS IN SUPPORT OF APPELLANT'S PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal. Appellant hereby requests a Pre-Appeal Brief Request for Review ("Request") of the claims finally rejected in the Final Office Action mailed June 4, 2010 ("Final Action").

No fee or extension of time is believed due for this request. However, if any fee or extension of time for this request is required, Appellant requests that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 50-0220.

REMARKS

Claims 2-6, 8-9, 27, 29, 31-32, 34 and 36-39, which were finally rejected in the Final Action mailed June 4, 2010, are the subject of this Request. Claims 2-5, 8-9, 27, 29 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over European Patent Publication No. EP 1096813 ("Koskinen"), in view of U.S. Patent Publication 2005/0041640 to Nasielski et al. ("Nasielski"). Claims 31, 32, 34, 37 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Koskinen in view of Nasielski, and further in view of U.S. Patent Publication No. 2004/0142694 ("Levy"). Claims 6 and 39 stand objected to as being dependent upon a rejected base claim, but the Final Action indicates that they would be allowable if rewritten in independent form, including all of the limitations of Claims 2 and 26, respectively.

In the interest of brevity, and without waiving the right to argue the numerous additional bases for patentability of the pending claims should this Petition be denied, Appellant will discuss only one of the grounds for withdrawal of the outstanding rejections.

Independent Claim 2 recites:

> A method for a wireless terminal participating in a packet-switched communications session to provide notice of receipt of an incoming circuit-switched call, the method comprising:
> receiving a paging request associated with the incoming circuit-switched call; and
> **notifying a server that establishes and runs the packet-switched communications session that the wireless terminal has received the incoming circuit-switched call,**
> wherein notifying the server that establishes and runs the packet-switched communications session that the wireless terminal has received the incoming circuit-switched call comprises forwarding a notification message from the wireless terminal to the server over a circuit-switched channel.

Independent Claims 27, 29 and 36 contain similar recitations. The Final Action cites Koskinen as teaching all of the aforementioned recitations except "forwarding a notification message . . . over a circuit-switched channel."

Koskinen is directed to a method of maintaining a packet-switched connection when a wireless terminal receives and accepts an incoming-circuit switched call. Koskinen describes a system wherein a maintenance counter severs any packet-switched connection that remains idle for a certain period of time. [0004]. To help maintain the packet-switched connection, the wireless terminal simply sends a "message" to the packet-switched server prior to accepting the incoming circuit-switched call. [0010-0011]. That "message" serves as proof that the packet-switched connection is not idle and resets the maintenance counter. *See* [0010-0011] and [0018]. Resetting the maintenance counter effectively reduces the probability that the packet-switched call will be dropped before the circuit-switched call is complete by extending the time available before the next maintenance "message" must be sent to the server. [0011].

The "message" used to reset the server's maintenance counter is hardly a message at all. It is wholly "insignificant," conveying nothing more than the fact that the wireless terminal is actively connected at that precise moment. *See* [0018]. The sole purpose of Koskinen's preferred "message"—a "No Operation" command—is to "maintain the packet[-switched] connection." *Id.*

> This command does not affect anything at all. It performs no action other than
> having the server send an OK reply. This command is used to keep
> connections with servers "alive" (connected) while nothing is being done.

Your Guide to Understanding FTP, http://www.ftpguide.com/NOOP.htm (last visited August 20, 2010); *see also*, XGEN: List of POP3 Commands Supported by Microsoft Exchange 2000 Server, http://support.microsoft.com/kb/322826 (last visited August 20, 2010); SMTP Commands, http://www.ilkda.com/sendmail/SMTP_Commands.htm (last visited August 20, 2010).

Although the Examiner appears to acknowledge that Koskinen's "message" does not carry any information, he nevertheless contends that "the message it convey[s] is very well-defined and interpreted by the packet server," implying that the server somehow knows to interpret a "No Operation" command as a signal that an incoming circuit-switched call has

been received. Final Action, page 3.

Appellant respectfully disagrees.

There is simply no basis for assuming that a server would interpret Koskinen's insignificant "message" to mean that an incoming circuit-switched call has been received. Koskinen's "message" no more signals that an incoming circuit-switched call has been received than it does that some woebegone user is staring at an idle email screen, unwilling to let her packet-switched connection die because her latest ex-boyfriend might finally see the error of his ways.

Koskinen thus fails to teach or suggest notifying a server that an incoming circuit-switched call has been received.

None of the other cited references supply the necessary teaching.

Therefore, because none of the cited references, nor any combination thereof, teaches or suggests "notifying a server that establishes and runs [a] packet-switched communications session that [a] wireless terminal has received [an] incoming circuit-switched call," Appellant respectfully requests that each of the outstanding rejections be reversed prior the filing of the appeal brief.
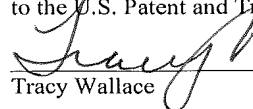
Respectfully submitted,

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